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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,804	04/20/2004	Gregory Springler	10541-1971	5061

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EXAMINER

KRAMER, DEVON C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/828,804

Applicant(s)

SPRINGER ET AL.

Examiner

Devon C. Kramer

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,8 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 4-7 9 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

- 1) Claims 13-20 are objected to because of the following informalities: Claim 13 line 9, "convex impact surfaces" should be --convex impact surface--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

- 2) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 3) Claims 1, 4-6, 11-16 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Brockenbrough et al (4852704).

In re claim 1 and 13, Brockenbrough et al provides an energy-absorbing padding for use in a motor vehicle comprising: a first base layer (16) having a first face, a second face, and a plurality of integrally-formed hollow, first elements projecting from the first face of the first base layer, each first element defining a convex impact surface disposed a first distance from the first face of the first base layer; a second base layer (14) having a first face, a second face, and a plurality of integrally-formed, hollow second elements projecting from the first face of the second base layer, each second element defining a convex impact surface disposed a second distance from the first face of the second base layer; wherein the first base layer is laminated with the second

base layer with the second face of the first base layer in opposition with a selected one of a group consisting of the first face of the second base layer and the second face of the second base layer, and the second distance is substantially different from the first dimension.

In re claims 4, 6, 11-12, 14, 16, and 19-20, see figure 2.

In re claims 5 and 15, see 48 and column 4 lines 64-69.

***Claim Rejections - 35 USC § 103***

4) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5) Claims 7, 9 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brockenbrough et al (4852704) in view of Carroll et al (2002/0017805).

IN re claim 7 and 9, Brockenbrough et al teaches an arrangement where the first major axis of one first element is generally collinear with the second major axis of one of one second element. Brockenbrough et al lacks generally planar base layers.

Carroll et al teaches first and second planar base portions (12').

It would have been obvious to one of ordinary skill in the art at the time of the invention to have made the base portions of Brockenbrough et al planar as taught by Carroll et al merely to provide a greater surface area to attach the device.

***Response to Arguments***

6) Applicant's arguments filed 7/26/05 have been fully considered but they are not persuasive. Applicant states that Brockenbrough et al lacks the teaching of a first base layer having.... Integrally formed, hollow, first elements.... That define "... a convex impact surface..." and "a second base layer having.... Integrally formed, hollow, second elements ..." that define "...a convex impact surface...". Brockenbrough et al teaches in figure 2, three base layers (12, 14, 16) each having a base portion (the portion where the layers contact each other) and a convex impact surface. Since there is a space formed between the convex portions and the element (23) the elements can be considered hollow. Applicant's arguments on page 7 of the last paragraph recite features which are not presented in the claims.

***Conclusion***

7) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C. Kramer whose telephone number is 571-272-7118. The examiner can normally be reached on Mon-Fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Devon C Kramer  
Examiner  
Art Unit 3683

DK

  
**DEVON C. KRAMER**  
**PATENT EXAMINER**